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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
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11 STEVEN VINCENT PRICE,
12 Petitioner,
13 v.
14 DERRICK OLLISON, Warden,
15 Respondent.
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Case No. CV 07-569 DSF(JC)
ORDER ADOPTING FINDINGS,
CONCLUSIONS, AND
RECOMMENDATIONS OF
UNITED STATES MAGISTRATE
JUDGE

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18 Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition for Writ of
19 Habeas Corpus by a Person in State Custody (the “Petition”) and all of the records
20 herein, including the attached Report and Recommendation of United States
21 Magistrate Judge (“Report and Recommendation”), and petitioner’s objections to
22 the Report and Recommendation (“Objections”). The Court has further made a *de*
23 *novo* determination of those portions of the Report and Recommendation to which
24 objection is made. The Court concurs with and adopts the findings, conclusions,
25 and recommendations of the United States Magistrate Judge with the updates noted
26 below and overrules the Objections.

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1 Based upon information that became available after the issuance of the
2 Report and Recommendation, citations/quotations in the Report and
3 Recommendation are updated as follows:

4 The citation to Hayes v. Ayers on pages 37-38 (not including the
5 explanatory parenthetical which follows the citation and remains unchanged) is
6 updated to read: Hayes v. Ayers, 632 F.3d 500, 521 (9th Cir. 2011).

7 The citation to United States v. Kent on page 45 (not including the
8 explanatory parenthetical which follows the citation and remains unchanged) is
9 updated to read: United States v. Kent, 633 F.3d 920, 926 (9th Cir. 2011).

10 The citation to Kent on page 46 (not including the explanatory parenthetical
11 which follows the citation and remains unchanged) is updated to read: Kent, 633
12 F.3d at 927.

13 Footnote 32 on page 67 is updated to read: In Wilson v. Knowles, __ F.3d
14 __, 2011 WL 1204143 (9th Cir. Apr. 1, 2011), the Ninth Circuit held a sentencing
15 judge exceeded the bounds of Apprendi's prior conviction exception when the
16 judge resolved disputed issues of material fact pertaining to one of Wilson's prior
17 convictions, including "the extent of [a surviving] victim's injuries and how [an]
18 accident occurred[,]" that increased Wilson's sentence to 25 years to life under
19 California's Three Strikes law. Id. at *2. The Ninth Circuit found the trial judge
20 violated Apprendi because the disputed facts in question were "not historical,
21 judicially noticeable facts" but instead were determined by the judge based on
22 speculation as to how a jury in the prior case might have evaluated the evidence if
23 the evidence had been offered and if such jury had been impaneled to evaluate it.
24 Id. Wilson is inapposite here, however, since, among other reasons, petitioner's
25 prior convictions were submitted to the jury. (CT 218-21; RT 348-80).

26 The citation to Norris v. Morgan on page 68 is updated to read: Norris v.
27 Morgan, 622 F.3d 1276, 1290 (9th Cir. 2010), cert. denied, 131 S. Ct. 1557 (2011).

28 The citation to Hayes v. Ayers on page 91 (not including the explanatory

1 parenthetical which follows the citation and remains unchanged) is updated to
2 read: Hayes v. Ayers, 632 F.3d at 524.

3 IT IS ORDERED that Judgment be entered denying the Petition and
4 dismissing this action with prejudice.

5 IT IS FURTHER ORDERED that the Clerk serve copies of this Order, the
6 Report and Recommendation, and the Judgment herein on petitioner and counsel
7 for respondent.

8 LET JUDGMENT BE ENTERED ACCORDINGLY.

9 5/17/11

10 DATED: _____



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13 HONORABLE DALE S. FISCHER
14 UNITED STATES DISTRICT JUDGE
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